1: Hollis G-5 (ca. 1894-1904) 1905
FL12 Masai FL12

Kake ţorono en-gitaapare too-'l-Maasae, amu ten ɛjökini en-dito: 'Inno, emna-ɛaapai,' nashir nalelg.

But the Masai consider it wrong for unmarried people to have children, and if you say to a girl: 'Go away, you who have conceived,' she will weep bitterly.

Ore en-gursi e-'n-gitaapare nɛji En-gursi e-'n-daapai, sraki En-gursi o-'l-tiren.

A child not born in wedlock is called The child of seduction or The child of the fireplace.

'L-oikop.

Ten ɛar ol-murani loo-'l-Maasae ol-likae metua, neipiri lido ɛtaara alo aisudori.

Naa, ten etii 'l-alashera le-lido ɛtaaraki, pe metii 'l-ooriah, nɛari lido ɛtaariake.

Ore ten eitu ɛari lido ɛtaariake, neitaki 'l-mɛruak e-ɛɛtwa oo 'l-alashera lido ɛtaariake, neitapaashi 'n-gilani. E'ya lekwa ootaaraki ol-alashe en-gila e-lido ɛtaariake, ne'ya ol-ɛtaariake en-gila e-lekwa ootaaraki ol-alashe.

Netoni lekwa ootaaraki ol-alashe. Ore pe enuta 'l-aria aare, neipot il-tuligunak le-'n-giahitini enye, nepwo ilkulg in-gishu e-lido ɛtaara ol-likae, ne'yai 'n-gishu pikin anaa en-jore.

Naa, ten etii en-gitelg naata ol-twala, naa inna epalakini.

Nerlki ali ol-ehikut. Ore pe ebaya eng-elg e-lido ɛtaaraki, nerinyi meshitino eng-elg enye.

Meitaliak il-Maasae ol-

Murder.

If a Masai warrior strikes another and kills him, he runs away and hides himself. 682

Should there be no judges, the brothers of the murdered man will kill the murderer.

If the latter is not killed, the elders make peace between the two families, and garments are exchanged. The family of the murdered man takes the murderer's garment, and the latter takes the garment of one of the dead man's brothers.

The murdered man's brothers then wait for two years, at the expiration of which they call together all their clan, and go and lift the murderer's cattle, taking them as they would in a raid.

If there is a cow in the herd with a bell tied round its neck, it is left behind.

The herdsman is carried off as well; but when the party have arrived at the kraal where the murdered man lived, he is allowed

Blood money is not paid by the

1: Hollis G-5 (ca. 1894-1904) 1905
FL12 Masai FL12

oikopani eitu emut il-arin aare, amu ějo eton eshal el-lughunya e-lido ŏtaaraki.

Ten ĕar ol-Maasani likae-Maasani, nĕji, 'Eitayo 'l-oikop'; mĕji, 'Etaarishe.' Nĕji ol-ŏtaarishe naa ol-ŏtaara 'l-meek.

Naa, ten ĕar ol-murani ol-likae, pe edung en-giok, neishooyo lido ŏtudung̃o ol-likae e-supen e-kerr. Naa, ten ĕar ol-likae, negil ol-oito, a ol-le-'n-geju, a ol-le-'ng-aina, a ol-le-'l-lughunya, neishooyo en-dauwo.

Naa, ten ĕari ol-ayŏni metua, melaki anaa ol-murani, kake eishoori 'l-bung̃aiko onom.

Masai until two years have elapsed, for they say that the dead man's head is still fresh[1].

When one Masai kills another, it is called committing murder, it is not called killing. Killing is only used when referring to savages.

If a warrior strikes another and tears the lobe of his ear, he has to pay a young ewe. If he breaks a bone, either in his leg, arm, or head, he has to pay a heifer.

If a boy is murdered, the amount which has to be paid is not as great as for a warrior, the price being fifty young bulls.

En-giopo.

Metii ol-murani araki ol-ayŏni oidim ataboitare en-gitok o-'l-poror le-menye. Ten eiyŏlŏuni, nedeki.

Ore ten edeki, neishooyo 'n-gishu are, en-e-'n-aisho, naaropye 'l-paiyani pe medek. O ol-kiteng̃ ŏyeng̃ il-paiyani ten ŏok en-aisho.

Kake meikŏni nĕja ten eboitare 'n-gitnak araki 'n-doiye o-'l-poror lenye. 'Me toroco inna.

Adultery.

No warrior or boy may commit adultery with a woman of his father's age. If he does so, and it becomes known, he is cursed.

Should he be cursed, he pays two oxen (one in lieu of honey-wine), and he prays the elders to remove the curse. The elders eat the ox when they drink their honey-wine.

But this is not the case if a man commits adultery or fornication with a woman or girl of his own age. This is not an offence[2].

[1] This law is not always put into force. The murdered man's relations are often willing to make peace on payment of a heavy fine, say one head of cattle.

[2] From this it will be seen that the Masai are polyandrous as well as polygamous. A man may marry as many wives as he can afford to purchase, and a woman may cohabit with any man belonging to her husband's age.

2: Bernardi E, M-4 (no date) 1955 FL12 Masai FL12

614 623 312 423 clansmen frequently meet on the water, and other matters — marriage, debts, etc. — come up for settlement before the tribunal". Clan ownership does not exclude individual ownership, which is integrated by the former as a sort of higher supervision. The point is that no clan property must be passed over to other clans without the owning clan's approval. HOBLEY,[28] states that cattle used to be marked by a clan brand showing clan-possession, and sometimes by a brand of the individual owner.

614 672 682 The corporate bond arising from clan relationship is confirmed by cases of murder compensation. Even if a murderer is a wealthy man, and might pay all the compensation out of his own stock, "the other branches of the clan would still contribute and they would pay their share". However, "if a Masai kills a member of his own branch of the *gilat* he pays compensation himself, and the other branches do not contribute".[30] LEAKEY, on the other hand, was told by his informants that no compensation is expected when a man kills a member of his own branch. They say: "what would be the use of taking a fine from one's own sub-clan?"[31] HOBLEY reports further that "each branch of the *gilat* to whom the murdered man belongs, receives a share of the compensation: 2-3rds to the murdered's father", and the rest is distributed among the other elders of the clan.[32] This is also confirmed by the notes of MAGUIRE on the penal code of the Masai.[33]

614 One should note that the corporate bond formed by clan relationship is of a particularist nature. It ties members to their own clan in opposition to other clans within the same tribe.

• • •

648 642 175 The many efforts of the Administration to identify a native political institution for local government make a very interesting piece of etnographical history. First in Kenya, and also, after 1918, in Tanganyika, one *laibon* was recognised as the Paramount Chief of the Masai. In Kenya such an office was abolished in 1918, while a graded system of councils was introduced: a Central Masai Council, 14 Native Councils and local Headmen. They acted as tribunals,

[28] HOBLEY, *Ethnology of A-Kamba*, p. 130.
[29] HOBLEY, l. c., p. 133; FOSBROOKE, l. c., pp. 43 s.
[30] LEAKEY, *Some Notes on the Masai of Kenya Colony*, in *J. R. A. I.*, 60, 1930, p. 309.
[31] HOBLEY, l. c.
[32] MAGUIRE, *The Masai Penal Code*, in *J. A. S.*, 36, 1936, pp. 13 ss.

3: Hollis G-5 (ca. 1894-1904) 1910 FL12 Masai FL12

sweetheart (*e-sanja*) a girl of the same sub-clan as himself, or one who is more nearly related to him than third cousin, and only then if the terms of address used are *ol-le-'atwa* and *en-e-'atwa*; and no traveller may cohabit with the wife of a member of his own age-grade if that man is married to one of his near relations, or to a daughter of his sub-clan.[1]

The payment of the bridal price authorizes a Masai to reckon the children which his wives bear as his own; it further gives him a full measure of control over both his wives and children, and they do all the household work and tend and look after his herds and flocks. But though individual marriage is recognised, sexual communism or something very like it prevails between all the men of one age-grade and the women of the corresponding age-grade, subject to the rules of exogamy and relationship, which forbid a man to marry or have sexual intercourse with a woman of his own clan or with a near relative. In other words the Masai may be said to live in a state of group marriage, based on the organisation of the whole community in age-grades, and restricted by the exogamy of the sub-clans and the rules regarding incest.

If a man is knowingly guilty of incest, or has sexual intercourse with a daughter of his own sub-clan, he is punished by his relations, who flog him and slaughter some of his cattle. If he fornicates or commits adultery with a daughter of a member of his own age-grade, he is punished by the members of his age-grade. His kraal is destroyed, he is severely beaten, and a number of his oxen are slaughtered. If a warrior or boy commits adultery with a wife of a man belonging to his father's age-grade, he is solemnly cursed by the members of that age-grade. Unless he pays the elders two oxen, one for them to eat and the other to enable them to buy honey wine, and prays them to remove the curse, it is supposed he will die.

If a man unintentionally commits incest—and it is quite conceivable that a man might not know his fourth or fifth cousin, for instance, should the two live in different districts—he has to present a cow to the girl's relations in order to "kill the relationship" (*e-or esp-aspil*).

A man must abstain from having sexual intercourse with his wife as soon as she becomes pregnant, and he may not again have connection with her until the child cuts the two middle incisor teeth of its upper and lower jaws. Should this rule be broken it is believed that the child will never be strong. In the event of a man having intercourse with a pregnant woman, and thereby causing her to abort, he must submit to a punishment which is called *ol-ásikwata*. All the women of the neighbourhood collect together and, having stripped, seize the guilty person and flog him, after which they slaughter as many of his cattle as they can, strangling and suffocating the animals with their garments.

Other occasions when the sexes may not have sexual intercourse are when

[1] For the rules regarding hospitality see *The Masai*, p. 297. An age-grade consists of all those men who are circumcised at one of the four festivals held during every 15 years. See *The Masai*, p. 288.

THE MASAI PENAL CODE

Some Notes on the Recognised Masai Punishments for Crimes, with Examples of Masai Oaths or Ordeals

121 The following notes relate to those punishments of ancient origin still remembered among the Kisongo [1] Masai. Some of the penalties are habitually inflicted up to the present day. Some, as will be obvious from a perusal of the text, have, of necessity, fallen into disuse. They have been written down from the statements of certain Masai Elders of the *'L-aimer* [2] age, and have received the *imprimatur* of the *'L-oibon* Párit. Párit [3] has asked me to say that he cannot be responsible for the authenticity of what follows, though he has no doubt that it is correct, but being a comparatively young man of the *'Siuro* [4] age, he has not the knowledge of these things that the Elders have.

114 115 [561]

121 The notes are brief and unscientific, and were made, primarily, with the object of adding to our knowledge of Masai custom in the matter of criminal offences in view of the recent formation of Native Courts throughout Tanganyika Territory.

'L-oikop: Murder

682 (*a*) If one Masai kills another, all the cattle of the murderer are taken by the relatives of the deceased. A council is then

[534]

[1] Kisongo is the Masai name for the southern Masai areas. It includes almost the entire Tanganyika Masai District as constituted to-day. The principal Masai "Districts" included under the name Kisongo are (for the purposes of this article) Moipo and Kiteto.

[2] Circumcision of 1874, approximately, according to Hollis.

[3] Párit is a brother of Séko and Kimárua, of Kenya. They are all three of the elder of the semi-white sons of *'L-enkenek*. Ol-Gumu (*Lenana*) was Párit's father, and Párit is Séko's brother by a different mother. Párit came down to Tanganyika in 1913 by his own desire, and at the request of the Tanganyika Masai. He has lived here ever since in the vicinity of Tavern. (GDH; Kilimanjaro; E; 7 & 8).

[4] Circumcision of 1898, approximately, according to Hollis. I think the date of the ceremony was somewhat later among the Masai of Tanganyika.

5: Maguire G-5 (no date) 1928
FL12 Masai FL12
Kisongo

held, and about half a dozen beasts are given to certain Elders and old women. The cattle are then divided. Bell-oxen, herd-leaders and cows about to calve are returned to the murderer (the original owner). The remainder are taken by the relatives of the murdered man. The matter is then regarded as having been settled, and cannot be reopened. 682

(b) If action is not taken at once by the relatives of the murdered man, the relatives of the murderer have the opportunity of sending a small stick or wand to the kraal of the deceased. This stick may sometimes be sent by a small boy to disarm suspicion, but it is often sent by a warrior, who endeavours to persuade some immature and unsuspicious member of the deceased's kraal to accept it. If it be accepted by any male member of the deceased's kraal, he must bring it to the Chief Elder of the kraal, who is then obliged to meet the relatives of the murderer in council. At this meeting, forty oxen are selected (good, fat beasts), and then nine more are selected. These forty-nine oxen are given to the deceased's relatives. If the stick-bearer returns, having failed to induce any member of the murdered man's kraal to accept the wand, the matter is dealt with as in (a).

(c) Sometimes the relatives of the deceased do not take action for two years or more.[1] Then they come in force to raid the murderer's cattle. They come by night and place an arrow on the ground at each gate of the kraal, and while these arrows remain there no one inside the kraal may leave it. The raiders watch silently near the kraal until early in the morning, when they call: "We want our just due." They are asked by the people in the kraal: "How many cattle do ye want?" Knowing how many the murderer owns, they state a number. If for any reason the murderer cannot supply the number demanded, his relatives make it up. Any beast round whose neck the murderer or his companions have managed to fasten a belt, without *losing* *[illegible]*, *de mort ckokum*,[2] if any member of the murderer's kraal should leave it while the arrows still

[1] See Hollis, *The Masai*, pp. 312–313. This custom of regarding the dead man's kraal as "dumb" does not seem to have been binding during latter years in Tanganyika.

[2] Probably a piece of sentiment. The beast is regarded as "bullet" when the belt or cable has been placed round its neck.

5: Maguire G-5 (no date) 1928
FL12 Masai FL12
Kisongo

remain before the gates, every ox, cow and calf of the murderer is forfeit.

(*d*) If the deceased has very few relatives, they sometimes try to surprise the murderer's cattle when out grazing. They hastily run them to their own kraal and brand one or two with their own brand.[1] If they succeed in branding a few before the relatives of the murderer arrive, the latter may only remove the bell-oxen and herd-leaders. All the remainder are forfeit.

Until the mater of the murder has been settled in any of the above ways or by the killing of the murderer without trial, no man from the murderer's kraal may be married to a girl from the kraal of the deceased and vice versa. This applies to all Masai, irrespective of clans or families. Donkeys, sheep and goats are never included in the property forfeited except by mutual agreement.

En-dooki: Parricide or Fratricide

If a son kills his father, or a brother his brother, he forfeits all rights to inheritance. The property goes to his brothers, their wives or (if he is an only son) to his uncles. If married, he forfeits his wife and children. If unmarried, he will never be given a Masai woman to wed. He is generally hunted from his kraal, and with his mother (to whom the blame for his crime also attaches) becomes an outcast.

Murder by unusual means—such as poisoning—is a very rare offence. The penalty would be the same as in murder by any ordinary method. Should the poisoned individual recover, the penalty would be the same as in the case of a serious injury. In some of the very few cases of murder by poisoning that have occurred in the past the culprit has been executed by the Masai.

Homicide is dealt with according to the gravity of the matter, the degree of provocation caused and the element of chance or accident existing. It is generally settled by the payment of twenty cattle and nine cattle, or forty cattle and nine cattle.

[1] For a comprehensive illustrated list of Masai cattle-brands, see *Die Masai* by M. Merker. (Berlin, 1910. Dietrich Reimer.)

5: Maguire G-5 (no date) 1928
FL12 Masai FL12
Kisongo

E'-TOOSHO: ASSAULT

683

Resulting in the loss of an eye—no penalty.

Resulting in the tearing of an ear-lobe—a fine of one ewe.

Resulting in the loss or breaking of a tooth—a fine of one ewe.

Resulting in the breaking of a bone—an ox of the offender's (he may not have been the aggressor originally) is slaughtered then and there, and all partake of it. The injured man must not see the skin of the slaughtered ox. At the same time, a fine of one heifer is inflicted, but if the injured man should die before this has been handed over, twenty and nine cattle may have to be paid subsequently by his slayer.[1] [682]

To strike a man with an arrow, a club, spear, sword, or knife would result in the imposition of a fine of one fat sheep or one ox, according to the extent of the cuts or other injuries inflicted.

The preceding penalties refer to Masai only. If the murdered man be a Bantu or savage (*Ol-meshi*), and if he was known to and a friend of the Masai, twenty and nine cattle must be paid to his relatives. In the case of the murder of or assault on a stranger, no penalty is laid down. [678] [679] [682]

The reiteration of the number nine in the fines prescribed may be explained as follows. A certain round number of cattle is settled upon as fine or compensation. To this number (generally twenty or forty) must be added nine more for the body of the murdered man, in order to wipe out the stain of blood which lies between the rival parties. These nine cattle are accounted for according to the orifices of the human body, thus two for the ears; two for the eyes; two for the nose; one for the mouth; one for the urethra and one for the anus.

'NYAMIN: THEFT

685

Theft of any kind is almost unknown among the Masai, but if one Masai should steal cattle from another, the thief must pay five beasts for each beast stolen, the sex of the animals paid depending on the sex of the stolen beasts. If sheep are

[1] See Hollis, *The Masai*, p. 312.

5: Maguire G-5 (no date) 1928
FL12 Masai FL12
Kisongo

E-TAREMU EN-GIOO : ABORTION

Abortion is rare.[1] Should a woman cause herself to abort, the matter is left to the women of the kraal, who generally beat the culprit. 682

If a woman is made to abort by her husband or by another man, the matter is again left to the women. They may beat the culprit, but the more usual procedure is for them to take an ox of the abortionist's to some quiet place and beat it to death with sticks. The women then eat this ox, but no men or no pregnant women may be present while they are doing so.[2]

IL-DEKETA : CURSES

If a warrior should curse an Elder, he must offer him a cow, a calf and a bottle of honey. If he does not do this, he will die.[3] 683

If one warrior is cursed by another, he may try to kill him. If he succeeds in doing so, he is liable to no penalty. On the other hand, he may bring the matter before the Council of Elders, who will fine the guilty party. [692]

IL-MOMA LOO-'L-MAASAE : MASAI ORDEALS

Eng-duo : The Bow[4]

A strung bow is laid on the ground and the deponent swears in front of the Elders that his words are true. He then steps over the bow. Should his words be true, no harm will come to him, but should he be telling a lie, he will have bad luck and may shortly die. 695 [777]

[1] During three and a half years spent with the Masai of Tanganyika Territory, I came across only one case of abortion. In this, the husband had caused his wife to abort, *as he was jealous of the father of the child*. This man was a warrior of the same age as that to which the husband belonged.

[2] The converse of the custom whereby no women may eat meat for the warriors' consumption before it has been cooked.

[3] For examples of Masai curses, see Hollis, *The Masai*, p. 344.

[4] *Eng-duo* is no longer regarded very seriously by the younger generation of Masai, and is falling into disuse in consequence. The other ordeals, particularly *Eng-duai*, are still regarded with awe, and I think it would be difficult to find a Masai living with the Tribe who would be prepared to testify falsely under ordeal.

Milking.—Milking is usually done by women and girls, but uninitiated boys may also milk. Milk is either drunk fresh or is curdled by mixing with blood, or is curdled alone by leaving for two or three days.

Raiding.—Frequent raids on neighbouring tribes are carried out by the warrior classes, and the cattle and sheep so obtained are some of them distributed to a warrior's parents and friends and some kept for himself. When cattle are raided from another clan or sub-clan in order to repay a murder (*see* Murder), all maimed, blind, and otherwise damaged cattle are returned immediately afterwards, for to keep these would certainly bring bad luck on the raiders.

PART X.—MISCELLANEOUS NOTES.

Fire.—Fire for special ceremonies is made by means of the hand-drill method, and women may not make fire by this means. Normally, fire is obtained from the ashes of the previous day's fire or from a few live coals borrowed from a neighbouring hut. The first fire in all new huts must be made with fire-sticks.

Murder.—Should a man kill a member of his own sub-clan there is no punishment. "What would be the use of taking a fine from one's own sub-clan?" If, however, a man of another sub-clan is killed, then the sub-clan of the murdered man raid the murderer's sub-clan and try to seize cattle in compensation. Usually a few fight takes place and if, in the course of this, a man of the murderer's sub-clan is killed, the matter is considered all square, and any raided cattle are returned. In the course of such a raid all sorts of cattle are driven off, but all the blind and maimed ones are returned next morning (*see* Raiding, above).

Smiths.—Among the Masai smiths are considered "bad." There are smiths in each clan, and the business is purely a family one handed down from father to son. Young boys of smiths' families are initiated alone, and once initiated go straight to the business of smithing and may take no part in the life of the ordinary novices or warriors. Smiths are considered to be considerably lower in the social scale than even the Wandorobo. A Dorobo can leave his hunting life and rank as a true Masi if he so chooses, but never a smith.

If a smith comes and sleeps at a village he is given a bed, but must sleep on the wrong side of the sleeping hide (*i.e.* the rough furry side). Smiths may only marry with smiths' families. No Masai would dream of marrying or having any kind of sexual intercourse with a smith's daughter (Wandorobo girls may be married by Masai, but not vice versa); nor can a smith marry an ordinary Masai girl. Smiths make spears and small knives, cattle bells and iron ornaments, but never swords, which are always bought from the Kikuyu. Should a Masai buy the cattle or sheep of a smith he must dip them in the river before adding them to his flock.

13:Huntingford E-4 (no date) 1953 FL12 Masai FL12

from each side scolded each other's babies. Peace was then kept till it suited one side to break it. With Bantu tribes the Masai sometimes made much blood-brotherhood with intent to deceive, for they have no blood-brotherhood of their own. As among the Nandi, grass is a sign of peace, and a handful of grass constitutes a plea for mercy recognized by the Masai and those whom they count as more or less their equals, the *Il-megati* or "enemies," such as other pastoralists, but not *Il-meek*, the Bantu agricultural tribes.

Legal Sanctions

The Masai legal system seems to be less organized than that of the Nandi, and to depend even more on the force of public opinion than on the position and status of the council leader. It appears that only in cases of homicide is there anything like a regular procedure. The Masai distinguish between intentional and accidental homicide, the difference being that for the latter there is no blood feud and the amount of compensation is smaller. The number of blood-cattle paid as compensation, *in-kishe ol-i-ashop*, "murder cattle," varies, but may be as high as two to three hundred for a man; Hollis says 50 for a boy, and Merker 10 head of cattle and 10 goats and sheep for a woman. Fadiman-ke gives the figures as 40 for a circumcised man, and 20 for a woman or uncircumcised man. The *Il-Arusa* are recognized as a group which pays and receives blood-cattle. The murder may be avenged by the dead person's brothers who may try to kill the murderer; and if compensation is not paid, the resulting feud may involve all agnatic kinsmen on both sides. It is not clear whether killing of the murderer makes the avengers also liable to compensation. If the victim belongs to the same sub-clan as the murderer, no compensation is payable. If they belong to different sub-clans of the same clan, or to different clans, all members of the murderer's sub-clan contribute, and the cattle are divided among the members of the victim's sub-clan after his senior brother has received half the stock. Where a settlement has been made, peace is made between the families concerned by an exchange of garments. Maguire gives details of three methods of dealing with cases of murder. (1) The relatives of the victim take all the murderer's cattle; they hold a council and, after giving a few cattle to certain elders and old women, the brothers, herd-leaders, and cows near calving are returned to the owner; the rest they divide among themselves. (2) If action is not taken at once, the relatives of the murderer send a stick to the relatives of the victim, the acceptance of which implies an agreement to meet and settle the matter, and compensation is arranged, the figure named being 40 head of cattle, with nine more added to symbolize the human body (reckoned by the number of its orifices). (3) Sometimes the relatives of the victim do not take action for two years or more; they then raid the murderer's kraal by night and demand the number they want. For killing a smith, *ol-karoni*, no compensation was payable, nor was there a blood feud. If a smith killed a Masai, several warriors set out and killed several smiths. Theft (except of cattle) is apparently considered of little account: "If a Masai steals milk or meat or other small things, he is not fined. Grown-up people rarely steal," says Hollis. For cattle thefts, the thieves when caught were fined, seven head from each man concerned.

The general principle that a man is entitled to compensation for a wrong suffered is recognized by all Masai; and this recognition is extended to "foreigners" like Dundas, provided the people concerned are well known to each other. On being accused, a man may submit to an oath, *ol-maasa*. In some cases a diviner of the type called *ol-gwaiki* by Merker is employed to find a guilty person. The whole subject of Masai legal institutions needs detailed investigation.

Modern Administration

The Masai political structure has proved even more difficult of adaptation than that of the Nandi, since it lacked the clear-cut paternal divisions of the latter. Up to 1918 the chief Sidai in Kenya was accepted by the Administration as a paramount

[Warrior Eval]

/97 cont./

701 654 [714] [534] fighting, large leg bells (ol dualiai sirai), the tinkling of which in the latter instance serves to prevent a going astray by the individual warriors and a scattering of the troops. Where the bell sounds is a rallying point.

[556] A special position is also occupied by the *l gdenisi* a benefactor. They are warriors who, themselves prosperous, also have a generous, well-to-do father. From him they often receive cows for slaughtering and then distribute the meat among their comrades and all strangers, without distinction as to age and sex. If such a benefactor is wounded in battle or if he suffers an injury elsewhere on the march or at home, the others are concerned about him and compete with one another to help him to the best of their ability.

701 703 977 Accordingly, miserliness is sharply condemned, and a miserly warrior or one who has miserly persons in need badly and, in case of illness or wounding on the way, is not infrequently left to lie helpless.

701 678 [554] Speaker and leader live like other warriors and are not surrounded by any special ceremonial. Off duty they are treated with respect, which is shown especially by the fact that people avoid coming too close to their girls or lightly seizing an excuse for a quarrel with them. Among the other warriors these two things almost daily lead to serious disputes and often enough to dueling, in which the opponents go after each other with sword and club, but only very rarely wound each other seriously. If this should appen sometime, in a few districts the wounded one receives from the victor a fine consisting of livestock; in other districts, only if a bone is broken. In general immediately after the duel /97/ reconciliation follows, the formality of which consists of the mutual exchange of medal tongs and sometimes also the exchange of the skin caps (a mark). The matter becomes more serious if one is killed in a duel. Then the other of the victor is then 701 578 • 692 condemned to pay a larger number of cattle. If he hands them over, the affair is settled. If he refuses them, however, the friends of the one killed attack his kraal and rob him of his entire herd. But they have scarcely brought them home before the friends of the one robbed also try to recover them again. This goes on until they have become tired

[Warrior kraal]

/66 cont./
of the fight, or until one party remains the victor two or more times in succession. The fight assumes greater dimensions if the two duelists belonged to different lineages or even different tribes. Then

Ill. 70. Dance in the warrior kraal I.

the two lineages or the two tribes make war on each other insofar as they live in one district; a conflict that is equivalent to a small civil war arises. Members of these lineages or tribes who live in a more distant district do not take part in the fight.

A war in which Maasai stand against Maasai is called el enkai (pl. el enkaiti), one en dáre (o dárdi) as a war between Maasai and foreign tribes is called.

/67/ In peacetime the warrior spends only the least time in his own kraal: for the most part he gads about on visits to neighboring ones, often several days' march away. Never may all leave the kraal together in peacetime: a guard of at least two men always remains at home for the protection of the girls and the livestock, while the rest may to visit at an el hui (house maal, see p. 111 above) or with other people.

/316 cont./

426 the full debt, not only up to the amount of the inherited property.
428 If a warrantor is liable for the debt, he must satisfy the creditor if
672 the debtor is unable to pay and, through that, becomes a creditor of the debtor himself. The liability of the warrantor does not end with his death, but passes on to his heir.

431 The non-acceptance of a gift is a rare insult to the giver and therefore never occurs. Giving is followed by counter-giving, except when the thing given was solicited by the ol mormai = divine judgment. The Masai is put into the awkward position of having to ask in this way only if, for example, on an expedition of war, he has come a long way from his home district and finds no members of his lineage in the kraal to which he has come. The petitioner hangs from the roof of the hut of the one from whom he wishes to have a head of cattle a stool with the legs upward, or he wraps the legs of the stool or a bow with grass. This type is more urgent than the former, since the request must be granted before the grass dries.
[611] The ol mormai is a divine judgment. A person who does not grant the request expressed in the ol mormai sign will soon be punished
[613] by Ng'ai through death or illness. A person who did not grant the request until after the grass had dried has himself absolved, for his own peace of mind, by a gathering of old men whom he entertains with a head of cattle and honey beer. It is believed that by the observance of this formality and by the statement of absolution of the old men God, too, has forgiven the sin. Upon handing over a gift, the giver always spits on it.

675 Loans or contracts are unknown. The creditor does not have
677 a right to the corpse of the debtor; neither debts nor misdeeds or
763 crimes committed by the deceased have an influence on the nature of his burial.

• 284 No distinction is made between murder and manslaughter, but there is one between these and negligent homicide. If murder was committed on a boy or warrior, it is explained by blood revenge carried out by boys and warriors or only by warriors. Any brother
[673] of the one murdered is free of all entitled to carry out the blood
[672] revenge and, further, any man belonging to the family. Blood

/154 cont./
revenge goes first against the murderer or, if he has fled and is not available, against his brother or any one of the family of the murderer. Usually blood revenge is commuted by composition (wergild), the amount of which the murderer negotiates with the avenger through a friend. As a rule it consists of 500-600 cattle -- now fewer in many cases -- which the murderer, together with his people and his fellow lineage and tribal members living in the vicinity, that is, in the same district, gather together. The avenger is free to accept or reject the composition. /155/ Blood revenge is not carried out longer than one or two months after the murders composition does take to place.

The kraal of the ol ainoi is regarded as a place of refuge. If the murderer has reached his dead here, blood revenge may no longer be carried out on him, though he remains obligated for the payment of the composition. Murder committed on a married man, a girl, or a woman is never expiated by blood revenge, but by a fine. Until the payment of the composition or fine the murderer is called ol olakkai (pl. ol olak). The murder of a blacksmith is expiated. On the other hand, if a blacksmith murders or even only negligently kills a Masai, a band of Masai consisting of married men, warriors, and boys immediately sets out to kill several blacksmiths.

Negligent homicide is expiated only by fines. There are very minor if the perpetrator and the one killed belong to one lineage. If they belong to different lineages of the same tribe, every male member of the lineage (warrior, married man) and every married female member of the lineage must pay a cow. Of this livestock the brother of the one killed receives one half, while the other half is distributed equally to his fellow lineage members. The fine is paid and distributed analogously if perpetrator and victim belong to different tribes. If a woman kills a man through negligence, she will also be killed in most districts. On the other hand, if a man has killed a woman, he either remains unpunished or is given a beating by the brother of the woman killed. In a few districts no distinction is made as to whether the perpetrator acted intentionally or negligently, for example, in Loita, where blood revenge is also only very rarely used.

/Bil vowl./

GB2. GS5 HB4. only very rarely used. In Jume areas the perpetrator, as punishment for the killing or the murder of a man, loses all his property: his livestock, his wives and children pass over to the heir of the deceased. For killing a woman who has not yet given birth to a child, only half of the livestock of the perpetrator will be given to the widower. For the killing of a woman who has children, the perpetrator pays her husband 10 head of cattle and 10 goats or sheep. In this area distinguished as to whether the woman killed had a son or a daughter: in the former case the fine is greater than in the latter one.

GB3. GS6 HB5. Bodily injury with a fatal result is regarded as the same as murder, as is one that results in the loss of a leg. A person who cuts off another's arm (in some districts this applies only to the right arm) or maims it useless pays the injured one a few head of cattle and lambs. In case the crippled one is killed in battle, also the fine customary as atonement for murder. It is assumed in this case that the cripple was killed only as a consequence of his inability to fight. Serious injury to the head is atoned for with the payment of a cow, an ox, and a sheep, among others only with the payment of a cow: the fracture of an arm or leg, with the payment of one or two head of cattle, likewise the fracture or loss of a finger, with /[illegible]/ the exception of the two index fingers (as mentioned or of unknown), which, as magic fingers, are 'dangerous and evil.'[1] The destruction of an eye remains unpunished. One who tears off another's ear here pays him a goat or a sheep for it.

GT2. One who acts as an accomplice to a crime against life and health is punished in the same way as the perpetrator.

GB4. GS7 HB6. Rape, abortion, unnatural lewdness, which is said to occur as rarely (1),

1. Cf. the remarkably lenient punishment in Sud bbn. /Bbnbbn/ 83, 14; Sud bbn. /Lwvbbvbn/ 81, 15; Sud bbn. /Lwvbbvbn/ 16, 83; Sib bbn. /Jmvvvvvvvvvy/ 97, 99.

are not punished.

/Fortsetzung/

682. A person who attempts suicide must, in some districts, pay a head of cattle to the one who prevented him from carrying out his intention.

Kidnapping and sale do not occur. Theft of cattle often leads to a fight if the thief and the person robbed belong to different kraals lying far apart and at the same time to different tribes. Among fellow tribal and kraal members the theft of a head of cattle is atoned for with a fine of up to ten head of cattle, that of a sheep or a goat with the payment of a head of cattle. Anyone who has eaten some of a stolen head of livestock, even if he did not know that it was stolen, must contribute to the payment of the fine. If the stolen head of cattle is found still alive and is returned to the owner, this acts in such a mitigating way that in most cases no punishment at all takes place (3).

> 3. Ibid Idmmn /Exodus/ XX, 1 and 4: If anyone steals an ox or a sheep and slaughters it or sells it, he shall restore five head of cattle for an ox and four head of small livestock for a sheep. If the one stolen is actually found alive in his hands /the Ger. Hant, "skin," here evidently should be Hand, "hand"/, from ox to donkey to sheep, he shall restore double.

One who acts as accomplice in a theft pays half the fine, while the thief has to raise the other half. One who steals a spear must return it and is given a beating as punishment. If the spear had already been sold before the one robbed discovered the thief, the latter must pay the former a cow, while the spear remains with the present owner. Theft of a shield is punished with the payment of a female goat. One who kills a stranger's livestock without stealing it must provide a replacement.

The death penalty is given for treason in war and for deliberate incendiarism. Negligent incendiarism is not punished.

/261 cont./

000 D 431 0 572 is present at all. The heir of the warrantor is also liable. The giver is offended by a refusal to accept a gift. A counter-gift of approximately the same value follows gift-giving. The giver spits upon the gift when he hands it over. The Wandorobo never conclude into blood friendships among themselves, but only -- and, to be sure, very rarely -- with members of other tribes. The ceremony observed for this resembles the one described above among the Masai. If a stranger has bought ivory from him and paid only part of the price, the ol doroboni often likes to conclude blood friendship with him because he thinks that then the debtor must die if he does not repay the debt as quickly as possible (1). D [171] [426]

1. This view is in general rare: it was not originally peculiar to the Asá, but adopted. D [177]

As among the Masai, the legal view makes no distinction between murder and manslaughter, but indeed between the latter and negligent homicide. A murderer caught in the very act is subject to blood revenge, for the execution of which every man belonging to the family of the one murdered and in some districts also any of his friends and campmates are justified. If the avengers do not succeed in capturing the murderer on the day of the murder, /262/ the latter is safe from blood revenge, for people see in the unsuccessful search for him a command of God to let him live. To atone for his deed, however, he must pay the principal heir of the deceased one large and two small ivory tusks. Negligent homicide is punished by the payment of a medium-sized ivory tusk. If the perpetrator and the one who was killed belong to the same lineage, the punishment is considerably less than if they are from different lineages of the same tribe. On the other hand, if the two belong to different tribes, the ones entitled to blood revenge often hand over the execution of it to the Masai, who kill the perpetrator, even if they do not capture him until after several months. Up to the completed payment the perpetrator is regarded as puni-andgi, corresponding to the ol olkuboni of the Masai. If an Asá kills a Masai blacksmith, the deed remains unpunished because the blacksmiths are too weak for revenge and the Masai would D 682 628 [171] [672] D [648] D M 682 648 M [564] [326]

/Ik cont./

never have anything to do with taking their part. On the other hand, if an Asá is killed by a blacksmith, the Masai immediately place themselves on the side of the ones injured and avenge murder, manslaughter, or negligent homicide by murdering the perpetrator. The Wandorobo, to be sure, would themselves be in a position to execute the revenge, but the Masai do not permit this because they see in it an encroachment on their rights as owners of the land and in particular also of the ol kenenu.

Bodily injury with a fatal outcome, if caused intentionally, is regarded as murder; if negligently, as negligent homicide. Minor bodily injuries are atoned for with the payment of a specific number of beehives. For the destruction of a finger one beehive is paid, for one hand eight; among some Wandorobo who live in close contact with the Masai the atonement for the destruction of a finger or the whole hand amounts to a fat-tailed sheep. Bodily injury leading only to the loss of an index finger or an eye often remains unpunished, as does indecent assault. Abortion is said to be unknown, and perversion not to occur. Kidnapping and sale are unknown.

A theft committed in the camp by an inhabitant or stranger is atoned for by the return of the stolen goods; that of a beehive hanging outside the camp, with the payment of ten new ones. Anyone who steals honey from a beehive pays five beehives. Arson is said not to occur; one who is the cause of the illness of another through sorcery is not infrequently killed, after he has been persuaded to charm the sick one back to health. The shooting of poisoned arrows in the camp is strictly forbidden, because of the danger connected with it. Anyone who transgresses this law must expect to be killed immediately by his companions.

Unknown are aggravated kinds of death, the principle of repaying like with like, compensation in the culpable body part, symbolism, implements, enslavement, public punishments, the right of pardon.

For the inquiry concerning an unknown culprit, the injured one turns -- /Ni/ as has already been mentioned -- to a sorcerer, who is also called ol goiatiki among the Wandorobo. Instead of the manipulations with the 40 grains, he throws a pair of sandals on the ground in front of him: eight times, then picks them up and puts

1. [ol goiatiki is a Masai word also meaning sorcerer--analyst]